



Town of Lexington

PLANNING BOARD

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Charles Hornig, Chair
Robert D. Peters, Vice Chair
Michael Schanbacher, Clerk
Robert Creech, Member
Melanie Thompson, Member
Michael Leon, Associate

RECOMMENDATION REPORT OF THE LEXINGTON PLANNING BOARD TO SPECIAL TOWN MEETING 2021-1

ARTICLE NUMBER AND TITLE	ARTICLE 17: AMEND ZONING BYLAW – SUSTAINABLE DESIGN FOR HARTWELL AVENUE (CITIZENS PETITION)
DATES LEGAL NOTICE PUBLISHED IN THE NEWSPAPER	Legal notices were published in the Lexington Minuteman Newspaper on October 14 and October 21, 2021
DATE PUBLIC HEARING OPENED	November 3, 2021
DATE OF A CONTINUED PUBLIC HEARING	NA
DATES PUBLIC HEARING CLOSED	November 3, 2021
DATE PLANNING BOARD VOTED ON A RECOMMENDATION TO TOWN MEETING	November 3, 2021
RECOMMENDATION	Approval
PRESENTERS WHO APPEARED DURING THE PUBLIC HEARINGS	Cindy Arens, Citizens Petitioner
PLANNING BOARD MEMBERS WHO VOTED ON THE ARTICLE	Charles Hornig, Chair; Robert Peters, Vice-chair; Michael Schanbacher, Clerk; Robert Creech; and Melanie Thompson

RECOMMENDATION

The Planning Board voted in favor 4-1-0 to recommend that Town Meeting **APPROVE** the motion under Article 17.

TOWN MEETING ACTION

Article 17 requires a 2/3 vote of Town Meeting.

RATIONALE FOR SUPPORT

Members of the Board identified the following rationale to support Article 17

- The article aligns with the aspirations of Town Meeting as demonstrated by the Climate Emergency it has declared.
- Requiring non-fossil fuel baseline HVAC as an incentive for the additional height allowed is reasonable.

- Buildings authorized will be with us for the next 50-70 years and the requirement will become easier to achieve as the technology improves.
- While a preferred approach would be for this requirement to be dealt with in the Building Code, that will take time, and the climate emergency is now.

CONCERNS

Members of the Board raised a variety of concerns:

- As stated by our professional staff, building design standards such as this should be located in the Building Code rather than the Zoning Bylaw.
- This requirement is not in place in the suburban communities that compete with Lexington for high-value commercial development and may make Lexington less competitive in that market.
- The requirement will have little effect in the short term, as those properties most likely to be redeveloped in the near future are subject to zoning freezes.
- In the longer term, conflicts between this requirement, the Fossil Fuel Use bylaw, and the Building Code may cause confusion, deter investment in Lexington, or lead to litigation.

DESCRIPTION

The motion under this Article adds an additional design requirement in the CM (Manufacturing) District, largely located along Hartwell Avenue, Westview Street, and Bedford Street. Under this standard, buildings taller than 65 feet (3-5 stories depending on building design) must provide a set amount of their heating load from sources other than on-site fossil fuel combustion. Fossil fuels may be used for off-site energy generation, additional heating, and to meet needs other than heating, such as humidification.

PUBLIC HEARING PROCESS

Due to COVID-19, the Planning Board held hearings for its Special Town Meeting 2020-1 Zoning Articles via Zoom. The Planning Board held the opening public hearing on November 3, 2021. In attendance were Charles Hornig, Chair; Robert Peters, Vice-Chair; Michael Schanbacher, Clerk; Robert Creech; and Melanie Thompson as voting members. Michael Leon was also present for the public hearing process as the Associate Member.

Date of Public Hearing	Summary of Public Hearing
November 3, 2021	<p>Charles Hornig, Chair, opened the public hearing, provided a brief outline of the format for the public hearing, and requested a presentation from Cindy Arens.</p> <p>Ms. Arens presented a PowerPoint presentation, Article 17 – Amend Zoning Bylaw – Sustainable Design for Hartwell Avenue (Citizen Petition). The presentation provided an overview of the proposed article and language, recommendations of support (from Sustainable Lexington</p>

Committee, Clean Heat Lexington, Lexington Climate Action Network, Mother Out Front Massachusetts, and LPS Green Teams, etc.), three example projects that exceed the proposed sustainability standards, a review of Article 17 by Town Counsel, an explanation of 5 Btu/h-ft², and a review of public outreach for the Article.

Mina Makarios, Town Counsel, provided insight into legal issues, including these changes in the Zoning Bylaw as proposed.

The Planning Board reviewed the proposed zoning article and provided comments. The following comments were discussed:

- Mr. Peters questioned if these proposed regulations would adversely impact the cost to tenants.
- Ms. Thompson questioned if there were any discussions with the three project examples.
- Mr. Creech requested clarification regarding the cost associated with the implementation of such sustainable measures. Mr. Creech further requested clarification regarding 5 British Thermal Unit (BTU)/hr per SF.
- Mr. Leon stated that he appreciated the goals and objectives for this Article. Mr. Leon stated that he was surprised about the interpretation of the Attorney General's response. Mr. Leon stated his concerns about making Lexington competitive with nearby communities (Waltham, Burlington, and other communities on Route 128). Mr. Leon requested clarification regarding the need not to wait for the State Building Code and why such Code would not be available in the next few months.
- Mr. Hornig requested clarification of the state of occupancy or construction for the three examples presented in the presentation. Mr. Hornig asked if there are any examples of projects that have been constructed that would meet the proposed standards. Mr. Hornig asked if any landowners within the Hartwell Avenue and Bedford Street area provided any feedback on the proposed regulations.

Mr. Hornig opened the floor for public comments. Public comments were received and may be reviewed in the meeting minutes of November 3, 2021, or the public hearing can be viewed on LexMedia.

PLANNING BOARD VOTE

Robert Peters moved that the Planning Board recommend approval to the Fall Special Town Meeting for the zoning amendment for Sustainable Design for Hartwell Avenue, as presented. Michael Schanbacher seconded the motion. The Planning Board voted in favor of the motion 4-1-0 (Roll call: Robert Peters – yes; Michael Schanbacher – yes; Melanie Thompson – yes; Robert Creech – yes; Charles Hornig – no). MOTION PASSED

Charles Hornig. no
Robert Peters.yes
Michael Schanbacher yes
Robert Creech. yes
Melanie Thompson.yes

SIGNATURE OF THE PLANNING BOARD

Charles Hornig, Chair